

Testimony before the
Senate State, Veterans, & Military Affairs Committee
Senate Bill 287
May 1, 2013

Witness: Joseph P. Benkert
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On Behalf of: BRETSA

Joe Pelle, Boulder County Sheriff
Mark Beckner, Police Chief, City of Boulder
Paul Zuber, Deputy Public Safety Chief, City of Longmont
Jake Adler, Police Chief, Town of Nederland
Douglas County Emergency Telephone Service Authority
El Paso-Teller Counties Emergency Telephone Service Authority
Garfield County Emergency Communications Authority

Qualifications:

- Telecommunications and New Technologies Attorney for over 30 Years
- Represented numerous companies from AT&T, DEC, ICG, MCI, Pacific Telecom and Pinnacle Towers to "Mom & Pop" operations in almost every sector of the telecommunications industry; including representation before the Federal Communications Commission, state utility commissions, and in transactional and litigation matters including antitrust.
- Was Senior Fellow—Information Law and Policy with the Center for the New West.
- Through consulting firm, Benkert Associates Inc., provides consulting services to Adelphi Capital and Goldman Sachs regarding holdings and investments in telecommunications and information technology and companies
- Representation of public safety agencies in telecommunications matters for over 25 years.
- Representation of BRETSA, the 9-1-1 Authority for Boulder County, in Federal Communications Commission and Colorado Public Utility Commission proceedings, transactional, litigation and organizational matters for the past 14 years.
- Participation with the Colorado 9-1-1 Task Force for 14 years, including participation on each of its legislative and rules subcommittees during that time.
- Participation with the Colorado Next Generation 9-1-1 Steering Committee and each of its subcommittees.
- CEO, 9-1-1 Colorado Foundation.

The Boulder, Douglas and El Paso-Teller, and Garfield County Emergency Telephone Service Authorities, Sheriff Pelle, Chiefs Beckner and Adler and Deputy Chief Zuber support Senate Bill 287 *with amendment*.

Impact of SB-287 on Basic Emergency Service:

Senate Bill 287 includes provisions for deregulation of certain telecommunications services. Unfortunately these provisions in the Bill as introduced would include within their scope IP-enabled Basic Emergency Service ("Next Generation 9-1-1 Service" or "NG9-1-1"). As a result the Public Utilities Commission would not have oversight of Basic Emergency Service when the service is upgraded to NG9-1-1. If adopted, at any time after the effective date of the Act, any party which had access to 9-1-1 calls to transmit to a Colorado Public Safety Answering Point and wanted to take advantage of the requirement of C.R.S. 29-11-103 that 9-1-1 Authorities pay for Basic Emergency Service, could declare themselves Basic Emergency Service Providers and demand whatever price they desired for the service; unless the 9-1-1 Authorities and PSAPs were willing to refuse to accept the 9-1-1 calls.

The concept of Basic Emergency Service was initially developed in Colorado after Weld County complained to the PUC of the charges for the different telephone companies providing service in their jurisdictions to deliver 9-1-1 calls to the County's Public Safety Answering Point. *This was before the Federal Communications Commission adopted requirements for wireless and VoIP providers to deliver 9-1-1 calls from their customers to the appropriate Public Safety Answering Point.* This resulted in the current reliable and cost-effective 9-1-1 System which serves all parts of the state.

With Basic Emergency Service, every wireline, wireless and VoIP telephone service provider delivers its customers 9-1-1 calls to aggregation points maintained by a Basic Emergency Service Provider. The Basic Emergency Service Provider also maintains and operates a highly reliable network dedicated to the delivery of 9-1-1 calls to and between the Public Safety Answering Points, with redundant and diversely located network facilities to avoid any single point of failure. As I have stated, the 9-1-1 Authorities are required by Colorado law to pay for the Basic Emergency Service, and the rates for the service is regulated by the PUC. The PUC has also adopted rules to assure the reliability of the Basic Emergency Services, and the PUC requires notification of outages affecting the 9-1-1 System and can investigate outages if necessary.

A significant portion of the Public Safety Communities' concern with the SB-287 is based upon an application and request for rule waivers which was filed with the PUC in 2011. *It is not hypothetical.* This concern is that new BESP's could commence service and only deliver to the PSAP the 9-1-1 calls originating on the networks of one or several of the service providers operating in the County. This would mean that the 9-1-1 Authorities would have to pay multiple providers to receive the same 9-1-1 calls currently delivered by a single BESP, and the new

BESPs would have a monopoly over the delivery of the 9-1-1 calls from the service providers they contracted with. This would take us back to the situation which prompted the development of Basic Emergency Service and the Basic Emergency Service Provider, but with much greater cost and complexity due to the significantly increased number of wireline, wireless and VoIP service providers doing business in Colorado.

It also strikes us as imprudent not to maintain PUC oversight of such a critical service, and of the rates for the service for which government entities are the sole customers.

Federal Preemption of State Regulation of Wireless Service

We have heard the AT&T representative testify on a Bill with similar provisions in the House that AT&T opposes regulation of Next Generation 9-1-1, because it would lead to PUC regulation of its services. Nothing in the Bill expands the PUC's authority to regulate any provider's services to its end users. Moreover, the PUC's authority to regulate wireless services is limited by Section 332 of the Federal Communications Act, a copy of which is attached. I have also attached Section 20.18 of the Federal Communications Commission's Rules, which address 9-1-1 Service by wireless providers and require wireless providers to deliver their customers 9-1-1 calls to a Statewide Aggregation Point—a BESP. The extent of this Section suggests field preclusion would apply if the Section 332 of the Communications Act did not already preclude state regulation.

Support for SB-287 If Amended by L-002.

BRETSA, the Douglas County Emergency Telephone Service Authority, El Paso-Teller, and Garfield County Emergency Telephone Service Authorities, Colorado State Fire Chiefs Association, Sheriff Pelle, Chief Beckner, Deputy Chief Zuber, and Chief Adler would support SB-287 as amended by Amendment L-002 and no other amendments.

In summary, oversight of Basic Emergency Service is appropriate, has worked well and benefitted the entire state of Colorado. PUC oversight should continue to assure NG9-1-1 Services are deployed rapidly, efficiently and to all parts of the state, and Basic Emergency Service continues to be reliable and affordable.

United States Code Annotated

Title 47. Telegraphs, Telephones, and Radiotelegraphs

Chapter 5. Wire or Radio Communication (Refs & Annos)

Subchapter III. Special Provisions Relating to Radio (Refs & Annos)

Part I. General Provisions

47 U.S.C.A. § 332

§ 332. Mobile services

Effective: February 8, 1996

Currentness

* * *

(c) Regulatory treatment of mobile services

* * *

(3) State preemption

(A) Notwithstanding sections 152(b) and 221(b) of this title, no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services. Nothing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for land line telephone exchange service for a substantial portion of the communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the universal availability of telecommunications service at affordable rates. Notwithstanding the first sentence of this subparagraph, a State may petition the Commission for authority to regulate the rates for any commercial mobile service and the Commission shall grant such petition if such State demonstrates that--

(i) market conditions with respect to such services fail to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory; or

(ii) such market conditions exist and such service is a replacement for land line telephone exchange service for a substantial portion of the telephone land line exchange service within such State.

The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition. If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such periods of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

(B) If a State has in effect on June 1, 1993, any regulation concerning the rates for any commercial mobile service offered in such State on such date, such State may, no later than 1 year after August 10, 1993, petition the Commission requesting that the State be authorized to continue exercising authority over such rates. If a State files such a petition, the State's existing regulation shall, notwithstanding subparagraph (A), remain in effect until the Commission completes all action

(including any reconsideration) on such petition. The Commission shall review such petition in accordance with the procedures established in such subparagraph, shall complete all action (including any reconsideration) within 12 months after such petition is filed, and shall grant such petition if the State satisfies the showing required under subparagraph (A)(i) or (A)(ii). If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such period of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory. After a reasonable period of time, as determined by the Commission, has elapsed from the issuance of an order under subparagraph (A) or this subparagraph, any interested party may petition the Commission for an order that the exercise of authority by a State pursuant to such subparagraph is no longer necessary to ensure that the rates for commercial mobile services are just and reasonable and not unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition in whole or in part.

47 U.S.C.A. § 332, 47 USCA § 332

Current through P.L. 112-283 approved 1-15-13

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Code of Federal Regulations

Title 47. Telecommunication

Chapter I. Federal Communications Commission (Refs & Annos)

Subchapter B. Common Carrier Services

Part 20. Commercial Mobile Services (Refs & Annos)

47 C.F.R. § 20.18

§ 20.18 911 Service.

Effective: July 25, 2012

Currentness

(a) Scope of Section. The following requirements are only applicable to CMRS providers, excluding mobile satellite service (MSS) operators, to the extent that they:

(1) Offer real-time, two way switched voice service that is interconnected with the public switched network; and

(2) Utilize an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. These requirements are applicable to entities that offer voice service to consumers by purchasing airtime or capacity at wholesale rates from CMRS licensees.

(b) Basic 911 Service. CMRS providers subject to this section must transmit all wireless 911 calls without respect to their call validation process to a Public Safety Answering Point, or, where no Public Safety Answering Point has been designated, to a designated statewide default answering point or appropriate local emergency authority pursuant to § 64.3001 of this chapter, provided that "all wireless 911 calls" is defined as "any call initiated by a wireless user dialing 911 on a phone using a compliant radio frequency protocol of the serving carrier."

(c) TTY Access to 911 Services. CMRS providers subject to this section must be capable of transmitting 911 calls from individuals with speech or hearing disabilities through means other than mobile radio handsets, e.g., through the use of Text Telephone Devices (TTY).

Note to Paragraph (c): Operators of digital wireless systems must begin complying with the provisions of this paragraph on or before June 30, 2002.

(d) Phase I enhanced 911 services.

(1) As of April 1, 1998, or within six months of a request by the designated Public Safety Answering Point as set forth in paragraph (j) of this section, whichever is later, licensees subject to this section must provide the telephone number of the originator of a 911 call and the location of the cell site or base station receiving a 911 call from any mobile handset accessing their systems to the designated Public Safety Answering Point through the use of ANI and Pseudo-ANI.

(2) When the directory number of the handset used to originate a 911 call is not available to the serving carrier, such carrier's obligations under the paragraph (d)(1) of this section extend only to delivering 911 calls and available call party information, including that prescribed in paragraph (l) of this section, to the designated Public Safety Answering Point.

Note to paragraph (d): With respect to 911 calls accessing their systems through the use of TTYs, licensees subject to this section must comply with the requirements in paragraphs (d)(1) and (d)(2) of this section, as to calls made using a digital wireless system, as of October 1, 1998.

(e) Phase II enhanced 911 service. Licensees subject to this section must provide to the designated Public Safety Answering Point Phase II enhanced 911 service, i.e., the location of all 911 calls by longitude and latitude in conformance with Phase II accuracy requirements (see paragraph (h) of this section).

(f) Phase-in for network-based location technologies. Licensees subject to this section who employ a network-based location technology shall provide Phase II 911 enhanced service to at least 50 percent of their coverage area or 50 percent of their population beginning October 1, 2001, or within 6 months of a PSAP request, whichever is later; and to 100 percent of their coverage area or 100 percent of their population within 18 months of such a request or by October 1, 2002, whichever is later.

(g) Phase-in for Handset-based Location Technologies. Licensees subject to this section who employ a handset-based location technology may phase in deployment of Phase II enhanced 911 service, subject to the following requirements:

(1) Without respect to any PSAP request for deployment of Phase II 911 enhanced service, the licensee shall:

(i) Begin selling and activating location-capable handsets no later than October 1, 2001;

(ii) Ensure that at least 25 percent of all new handsets activated are location-capable no later than December 31, 2001;

(iii) Ensure that at least 50 percent of all new handsets activated are location-capable no later than June 30, 2002; and

(iv) Ensure that 100 percent of all new digital handsets activated are location-capable no later than December 31, 2002, and thereafter.

(v) By December 31, 2005, achieve 95 percent penetration of location-capable handsets among its subscribers.

(vi) Licensees that meet the enhanced 911 compliance obligations through GPS-enabled handsets and have commercial agreements with resellers will not be required to include the resellers' handset counts in their compliance percentages.

(2) Once a PSAP request is received, the licensee shall, in the area served by the PSAP, within six months or by October 1, 2001, whichever is later:

(i) Install any hardware and/or software in the CMRS network and/or other fixed infrastructure, as needed, to enable the provision of Phase II enhanced 911 service; and

(ii) Begin delivering Phase II enhanced 911 service to the PSAP.

(3) For all 911 calls from portable or mobile phones that do not contain the hardware and/or software needed to enable the licensee to provide Phase II enhanced 911 service, the licensee shall, after a PSAP request is received, support, in the area served by the PSAP, Phase I location for 911 calls or other available best practice method of providing the location of the portable or mobile phone to the PSAP.

(4) Licensees employing handset-based location technologies shall ensure that location-capable portable or mobile phones shall conform to industry interoperability standards designed to enable the location of such phones by multiple licensees.

(h) Phase II accuracy. Licensees subject to this section shall comply with the following standards for Phase II location accuracy and reliability, to be tested and measured either at the county or at the PSAP service area geographic level, based on outdoor measurements only:

(1) Network-based technologies:

(i) 100 meters for 67 percent of calls, consistent with the following benchmarks:

(A) One year from January 18, 2011, carriers shall comply with this standard in 60 percent of counties or PSAP service areas. These counties or PSAP service areas must cover at least 70 percent of the population covered by the carrier across its entire network. Compliance will be measured on a per-county or per-PSAP basis using, at the carrier's election, either

(1) Network-based accuracy data, or

(2) Blended reporting as provided in paragraph (h)(1)(iv) of this section.

(B) Three years from January 18, 2011, carriers shall comply with this standard in 70 percent of counties or PSAP service areas. These counties or PSAP service areas must cover at least 80 percent of the population covered by the carrier across its entire network. Compliance will be measured on a per-county or per-PSAP basis using, at the carrier's election, either

(1) Network-based accuracy data, or

(2) Blended reporting as provided in paragraph (h)(1)(iv) of this section.

(C) Five years from January 18, 2011, carriers shall comply with this standard in 100% of counties or PSAP service areas covered by the carrier. Compliance will be measured on a per-county or per-PSAP basis, using, at the carrier's election, either

- (1) Network-based accuracy data,
- (2) Blended reporting as provided in paragraph (h)(1)(iv) of this section, or
- (3) Handset-based accuracy data as provided in paragraph (h)(1)(v) of this section.

(ii) 300 meters for 90 percent of calls, consistent with the following benchmarks:

(A) Three years from January 18, 2011, carriers shall comply with this standard in 60 percent of counties or PSAP service areas. These counties or PSAP service areas must cover at least 70 percent of the population covered by the carrier across its entire network. Compliance will be measured on a per-county or per-PSAP basis using, at the carrier's election, either

- (1) Network-based accuracy data, or
- (2) Blended reporting as provided in paragraph (h)(1)(iv) of this section.

(B) Five years from January 18, 2011, carriers shall comply in 70 percent of counties or PSAP service areas. These counties or PSAP service areas must cover at least 80 percent of the population covered by the carrier across its entire network. Compliance will be measured on a per-county or per-PSAP basis using, at the carrier's election, either

- (1) Network-based accuracy data, or
- (2) Blended reporting as provided in paragraph (h)(1)(iv) of this section.

(C) Eight years from January 18, 2011, carriers shall comply in 85 percent of counties or PSAP service areas. Compliance will be measured on a per-county or per-PSAP basis using, at the carrier's election, either

- (1) Network-based accuracy data,
- (2) Blended reporting as provided in paragraph (h)(1)(iv) of this section, or
- (3) Handset-based accuracy data as provided in paragraph (h)(1)(v) of this section.

(iii) County-level or PSAP-level location accuracy standards for network-based technologies will be applicable to those counties or PSAP service areas, on an individual basis, in which a network-based carrier has deployed Phase II in at least one cell site located within a county's or PSAP service area's boundary. Compliance with the requirements of paragraph (h)(1)(i) and paragraph (h)(1)(ii) of this section shall be measured and reported independently.

(iv) Accuracy data from both network-based solutions and handset-based solutions may be blended to measure compliance with the accuracy requirements of paragraph (h)(1)(i)(A) through (C) and paragraph (h)(1)(ii)(A) through (C) of this section. Such blending shall be based on weighting accuracy data in the ratio of assisted GPS ("A-GPS") handsets to non-A-GPS handsets in the carrier's subscriber base. The weighting ratio shall be applied to the accuracy data from each solution and measured against the network-based accuracy requirements of paragraph (h)(1) of this section.

(v) A carrier may rely solely on handset-based accuracy data in any county or PSAP service area if at least 85 percent of its subscribers, network-wide, use A-GPS handsets, or if it offers A-GPS handsets to subscribers in that county or PSAP service area at no cost to the subscriber.

(vi) A carrier may exclude from compliance particular counties, or portions of counties, where triangulation is not technically possible, such as locations where at least three cell sites are not sufficiently visible to a handset. Carriers must file a list of the specific counties or portions of counties where they are utilizing this exclusion within 90 days following approval from the Office of Management and Budget for the related information collection. This list must be submitted electronically into PS Docket No. 07-114, and copies must be sent to the National Emergency Number Association, the Association of Public-Safety Communications Officials-International, and the National Association of State 9-1-1 Administrators. Further, carriers must submit in the same manner any changes to their exclusion lists within thirty days of discovering such changes. This exclusion will sunset on [8 years after effective date].

(2) Handset-based technologies:

(i) Two years from January 18, 2011, 50 meters for 67 percent of calls, and 150 meters for 80 percent of calls, on a per-county or per-PSAP basis. However, a carrier may exclude up to 15 percent of counties or PSAP service areas from the 150 meter requirement based upon heavy forestation that limits handset-based technology accuracy in those counties or PSAP service areas.

(ii) Eight years from January 18, 2011, 50 meters for 67 percent of calls, and 150 meters for 90 percent of calls, on a per-county or per-PSAP basis. However, a carrier may exclude up to 15 percent of counties or PSAP service areas from the 150 meter requirement based upon heavy forestation that limits handset-based technology accuracy in those counties or PSAP service areas.

(iii) Carriers must file a list of the specific counties or PSAP service areas where they are utilizing the exclusion for heavy forestation within 90 days following approval from the Office of Management and Budget for the related information collection. This list must be submitted electronically into PS Docket No. 07-114, and copies must be sent to the National Emergency Number Association, the Association of Public-Safety Communications Officials-International, and the National Association of State 9-1-1 Administrators. Further, carriers must submit in the same manner any changes to their exclusion lists within thirty days of discovering such changes.

(iv) Providers of new CMRS networks that meet the definition of covered CMRS providers under paragraph (a) of this section must comply with the requirements of paragraphs (h)(2)(i) through (iii) of this section. For this purpose, a "new CMRS network" is a CMRS network that is newly deployed subsequent to the effective date of the Third Report and Order in PS Docket No. 07-114 and that is not an expansion or upgrade of an existing CMRS network.

(3) Confidence and uncertainty data: Two years after January 18, 2011, all carriers subject to this section shall be required to provide confidence and uncertainty data on a per-call basis upon the request of a PSAP. Once a carrier has established baseline confidence and uncertainty levels in a county or PSAP service area, ongoing accuracy shall be monitored based on the trending of uncertainty data and additional testing shall not be required. All entities responsible for transporting confidence and uncertainty between wireless carriers and PSAPs, including LECs, CLECs, owners of E911 networks, and emergency service providers (collectively, System Service Providers (SSPs)) must implement any modifications that will enable the transmission of confidence and uncertainty data provided by wireless carriers to the requesting PSAP. If an SSP does not pass confidence and uncertainty data to PSAPs, the SSP has the burden of proving that it is technically infeasible for it to provide such data.

(i) Reports on Phase II plans. Licensees subject to this section shall report to the Commission their plans for implementing Phase II enhanced 911 service, including the location-determination technology they plan to employ and the procedure they intend to use to verify conformance with the Phase II accuracy requirements by November 9, 2000. Licensees are required to update these plans within thirty days of the adoption of any change. These reports and updates may be filed electronically in a manner to be designated by the Commission.

(j) Conditions for enhanced 911 services.

(1) Generally. The requirements set forth in paragraphs (d) through (h) of this section shall be applicable only if the administrator of the designated Public Safety Answering Point has requested the services required under those paragraphs and the Public Safety Answering Point is capable of receiving and utilizing the data elements associated with the service and a mechanism for recovering the Public Safety Answering Point's costs of the enhanced 911 service is in place.

(2) Commencement of six-month period.

(i) Except as provided in paragraph (ii) of this section, for purposes of commencing the six-month period for carrier implementation specified in paragraphs (d), (f) and (g) of this section, a PSAP will be deemed capable of receiving and utilizing the data elements associated with the service requested, if it can demonstrate that it has:

(A) Ordered the necessary equipment and has commitments from suppliers to have it installed and operational within such six-month period; and

(B) Made a timely request to the appropriate local exchange carrier for the necessary trunking, upgrades, and other facilities.

(ii) For purposes of commencing the six-month period for carrier implementation specified in paragraphs (f) and (g) of this section, a PSAP that is Phase I-capable using a Non-Call Path Associated Signaling (NCAS) technology will be

deemed capable of receiving and utilizing the data elements associated with Phase II service if it can demonstrate that it has made a timely request to the appropriate local exchange carrier for the ALI database upgrade necessary to receive the Phase II information.

(3) Tolling of six-month period. Where a wireless carrier has served a written request for documentation on the PSAP within 15 days of receiving the PSAP's request for Phase I or Phase II enhanced 911 service, and the PSAP fails to respond to such request within 15 days of such service, the six-month period for carrier implementation specified in paragraphs (d), (f), and (g) of this section will be tolled until the PSAP provides the carrier with such documentation.

(4) Carrier certification regarding PSAP readiness issues. At the end of the six-month period for carrier implementation specified in paragraphs (d), (f) and (g) of this section, a wireless carrier that believes that the PSAP is not capable of receiving and utilizing the data elements associated with the service requested may file a certification with the Commission. Upon filing and service of such certification, the carrier may suspend further implementation efforts, except as provided in paragraph (j)(4)(x) of this section.

(i) As a prerequisite to filing such certification, no later than 21 days prior to such filing, the wireless carrier must notify the affected PSAP, in writing, of its intent to file such certification. Any response that the carrier receives from the PSAP must be included with the carrier's certification filing.

(ii) The certification process shall be subject to the procedural requirements set forth in sections 1.45 and 1.47 of this chapter.

(iii) The certification must be in the form of an affidavit signed by a director or officer of the carrier, documenting:

(A) The basis for the carrier's determination that the PSAP will not be ready;

(B) Each of the specific steps the carrier has taken to provide the E911 service requested;

(C) The reasons why further implementation efforts cannot be made until the PSAP becomes capable of receiving and utilizing the data elements associated with the E911 service requested; and

(D) The specific steps that remain to be completed by the wireless carrier and, to the extent known, the PSAP or other parties before the carrier can provide the E911 service requested.

(iv) All affidavits must be correct. The carrier must ensure that its affidavit is correct, and the certifying director or officer has the duty to personally determine that the affidavit is correct.

(v) A carrier may not engage in a practice of filing inadequate or incomplete certifications for the purpose of delaying its responsibilities.

(vi) To be eligible to make a certification, the wireless carrier must have completed all necessary steps toward E911 implementation that are not dependent on PSAP readiness.

(vii) A copy of the certification must be served on the PSAP in accordance with § 1.47 of this chapter. The PSAP may challenge in writing the accuracy of the carrier's certification and shall serve a copy of such challenge on the carrier. See §§ 1.45 and 1.47 and §§ 1.720 through 1.736 of this chapter.

(viii) If a wireless carrier's certification is facially inadequate, the six-month implementation period specified in paragraphs (d), (f) and (g) of this section will not be suspended as provided for in paragraph (j)(4) of this section.

(ix) If a wireless carrier's certification is inaccurate, the wireless carrier will be liable for noncompliance as if the certification had not been filed.

(x) A carrier that files a certification under paragraph (j)(4) of this section shall have 90 days from receipt of the PSAP's written notice that it is capable of receiving and utilizing the data elements associated with the service requested to provide such service in accordance with the requirements of paragraphs (d) through (h) of this section.

(5) Modification of deadlines by agreement. Nothing in this section shall prevent Public Safety Answering Points and carriers from establishing, by mutual consent, deadlines different from those imposed for carrier and PSAP compliance in paragraphs (d), (f), and (g)(2) of this section.

(k) Dispatch service. A service provider covered by this section who offers dispatch service to customers may meet the requirements of this section with respect to customers who utilize dispatch service either by complying with the requirements set forth in paragraphs (b) through (e) of this section, or by routing the customer's emergency calls through a dispatcher. If the service provider chooses the latter alternative, it must make every reasonable effort to explicitly notify its current and potential dispatch customers and their users that they are not able to directly reach a PSAP by calling 911 and that, in the event of an emergency, the dispatcher should be contacted.

(l) Non-service-initialized handsets.

(1) Licensees subject to this section that donate a non-service-initialized handset for purposes of providing access to 911 services are required to:

(i) Program each handset with 911 plus the decimal representation of the seven least significant digits of the Electronic Serial Number, International Mobile Equipment Identifier, or any other identifier unique to that handset;

(ii) Affix to each handset a label which is designed to withstand the length of service expected for a non-service-initialized phone, and which notifies the user that the handset can only be used to dial 911, that the 911 operator will not be able to call the user back, and that the user should convey the exact location of the emergency as soon as possible; and

(iii) Institute a public education program to provide the users of such handsets with information regarding the limitations of non-service-initialized handsets.

(2) Manufacturers of 911-only handsets that are manufactured on or after May 3, 2004, are required to:

(i) Program each handset with 911 plus the decimal representation of the seven least significant digits of the Electronic Serial Number, International Mobile Equipment Identifier, or any other identifier unique to that handset;

(ii) Affix to each handset a label which is designed to withstand the length of service expected for a non-service-initialized phone, and which notifies the user that the handset can only be used to dial 911, that the 911 operator will not be able to call the user back, and that the user should convey the exact location of the emergency as soon as possible; and

(iii) Institute a public education program to provide the users of such handsets with information regarding the limitations of 911-only handsets.

(3) Definitions. The following definitions apply for purposes of this paragraph.

(i) Non-service-initialized handset. A handset for which there is no valid service contract with a provider of the services enumerated in paragraph (a) of this section.

(ii) 911-only handset. A non-service-initialized handset that is manufactured with the capability of dialing 911 only and that cannot receive incoming calls.

(m) Reseller obligation.

(1) Beginning December 31, 2006, resellers have an obligation, independent of the underlying licensee, to provide access to basic and enhanced 911 service to the extent that the underlying licensee of the facilities the reseller uses to provide access to the public switched network complies with sections 20.18(d)–(g).

(2) Resellers have an independent obligation to ensure that all handsets or other devices offered to their customers for voice communications and sold after December 31, 2006 are capable of transmitting enhanced 911 information to the appropriate PSAP, in accordance with the accuracy requirements of section 20.18(i).

Credits

[61 FR 40352, Aug. 2, 1996; 63 FR 2637, Jan. 16, 1998; 64 FR 60130, Nov. 4, 1999; 64 FR 72956, Dec. 29, 1999; 65 FR 58661, Oct. 2, 2000; 65 FR 82295, Dec. 28, 2000; 66 FR 55623, Nov. 2, 2001; 66 FR 59719, Nov. 30, 2001; 66 FR 63093, Dec. 4, 2001; 67 FR 1648, Jan. 14, 2002; 67 FR 36117, May 23, 2002; 67 FR 63851, Oct. 16, 2002; 68 FR 2918, Jan. 22, 2003; 69 FR 2517, 2519, Jan. 16, 2004; 69 FR 6581, Feb. 11, 2004; 72 FR 27708, May 16, 2007; 73 FR 8625, Feb. 14, 2008; 75 FR 70613, Nov. 18, 2010; 76 FR 23713, April 28, 2011; 76 FR 59921, Sept. 28, 2011; 77 FR 43536, July 25, 2012]

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AUTHORITY: 47 U.S.C. 154, 160, 201, 251–254, 301–303 and 332 unless otherwise noted.

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